

REMARKS

Please reconsider the application in view of the following remarks. Applicants thank the Examiner for carefully considering this application

Disposition of Claims

Claims 1-8, 10-15, 17, and 20-23 are pending in the present patent application. Claims 1, 2, 13, 14, and 15 are independent. The remaining claims depend, either directly or indirectly, on claims 1, 2, 13, 14, and 15.

Declaration under 37 CFR § 1.131

The purpose of a 37 CFR § 1.131 declaration is to overcome a prior art rejection by proving invention of the claimed subject matter by the Applicants prior to the effective filing date of the reference relied upon in the rejection. *See* MPEP § 715.01. A Rule 1.131 declaration shall be considered when it is presented prior to a final rejection. *See* MPEP § 715.09.

A declaration under 37 C.F.R. § 1.131 may be established using one of three alternatives shown outlined in MPEP § 715.07, III:

37 C.F.R. 1.131(b) provides three ways in which an applicant can establish prior invention of the claimed subject matter. The showing of facts must be sufficient to show:

(A) (actual) reduction to practice of the invention prior to the effective date of the reference; or

(B) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to practice; or

(C) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference

date to the filing date of the application (constructive reduction to practice). [emphasis added]

In the instant case, Applicants' declaration indicates an actual reduction. Accordingly, the Applicant must only show actual reduction to practice prior to the effective filing date of the reference, *i.e.*, August 4, 2000. Under the actual reduction to practice alternative, a showing of diligence, including engineering-diligence and attorney-diligence, is not required. See MPEP § 715.07, III.

Rejections under 35 U.S.C. § 103

Claims 1-8, 10-15, 17, and 20-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,167,383 (hereinafter "Henson") in view of U.S. Patent Publication No. 2002/0077931 (hereinafter "Henrion"). For the reasons set forth below, this rejection is respectfully traversed.

Henrion is not valid prior art to this application as evidenced by the attached declaration under 37 C.F.R. § 1.131. As stated in the declaration, the present invention was reduced to practice prior to the effective filing date of Henrion (*i.e.*, prior to August 4, 2000). In view of the above, Henrion may not be used to support the aforementioned 35 U.S.C. § 103 rejection. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number

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listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 09469/108001; 59.0044).

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Respectfully submitted,

By /Robert P. Lord/
Robert P. Lord
Registration No.: 46,479
OSHA · LIANG LLP
3945 Freedom Circle, Suite 300
Santa Clara, California 95054
(408) 727-0600
(408) 727-8778 (Fax)
Attorney for Applicants

Enclosure (Declaration Pursuant to 37 CFR § 1.131)